

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 7/15/08

Plaintiff,

- against -

IDT CORPORATION,

Defendant.

ECF CASE

2008 Civ. 04478 (RJH)

PROPOSED SCHEDULING ORDER

Pursuant to Rule 16, all parties in the above-identified action have met and conferred regarding scheduling, and hereby propose the following schedule:

1. Description of the Case

- a. Identify the attorneys of record for each party, including lead trial attorney:

Attorneys for Plaintiff

Robert C. Morgan - Lead Counsel
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Attorneys for Defendant

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Victor A. Kubli
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b. State the basis for federal jurisdiction:

This Court has jurisdiction pursuant to 28 U.S.C. § 1332 in that this action is between citizens of a State and a subject of a foreign state, and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

c. Briefly describe the claims asserted in the complaint and any counterclaims:

The Complaint asserts a claim for breach of an agreement dated August 17, 2007 (the "Settlement Agreement") in connection with the settlement of a patent infringement action in this Court captioned *Aerotel, Ltd. et al. v. IDT Corporation*, Case No. 03 Civ. 6496 (RJH)(FM)(the "Civil Action"). A Stipulation and Order of Dismissal in the Civil Action was entered by the Court on September 27, 2007. Aerotel asserts in the present action claims for breach of the Settlement Agreement, anticipatory breach and breach of an implied covenant of good faith and fair dealing. Defendant has no counterclaims to assert at this time, but reserves its rights.

d. State the major legal and factual issues in the case:

- i. Whether defendant is in breach of the Settlement Agreement and, if so, the measure of damages for such breach.

e. Describe the relief sought:

Plaintiff seeks an award in the amount of at least \$30 million plus interest thereon.

2. Proposed Case management Plan

a. Identify all pending motions:

None.

b. Cutoff date for joinder of additional parties : September 22, 2008

c. Cutoff date for amendments to pleadings : September 22, 2008

d. Schedule for completion of discovery

- i. Rule 26(a)(1) disclosures : September 8, 2008
- ii. Completion of fact discovery : January 15, 2009
- iii. Rule 26(a)(2) disclosures : January 15, 2009
- iv. Opening expert reports : January 30, 2009
- v. Rebuttal expert reports : February 20, 2009
- vi. Completion of expert discovery : March 31, 2009

e. Date for filing dispositive motions : April 20, 2009

f. Date for filing final pretrial order : June 4, 2009

g. Trial schedule

- i. Whether a jury trial is requested : Jury Trial
- ii. The probable length of trial : 3 days
- iii. When the case will be ready for trial : July 1, 2009.

3. Consent to Proceed Before a Magistrate Judge:

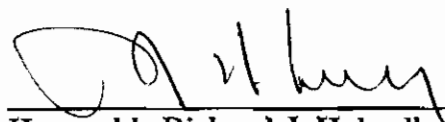
The parties do not consent to proceed before a Magistrate Judge.

4. Status of Settlement Discussions

The parties have engaged in settlement discussions and are agreeable to further discussions. Both parties request a settlement conference.

SO ORDERED:

this 11 day of July 2008



Honorable Richard J. Holwell
United States District Judge

Approved:

Robert C. Morgan
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Date: July 10, 2008

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Date: July 10, 2008

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